

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>DEBORAH CODY</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 214,993
<b>CHRISTOPHER MANOR</b>	)	
Respondent	)	
AND	)	
	)	
<b>PHICO INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge John D. Clark on September 26, 1996.

**ISSUES**

On appeal respondent raises the following issues:

- (1) Whether claimant suffered personal injury to her left knee?
- (2) Whether injury to claimant's left knee arose out of the course of her employment.
- (3) Whether the Administrative Law Judge exceeded his authority in awarding temporary total benefits from July 11, 1996, until claimant reaches maximum medical improvement.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes the Order of the Administrative Law Judge should be affirmed.

Claimant testified that she slipped and fell on some coffee. She reported the incident and filed an accident report indicating that, among other things, she had injured her knee. Although she did not seek immediate medical attention, she gave a consistent history of her work-related injury once she did seek medical attention. Dr. Christopher W. Siwek, the treating orthopedic surgeon, has recommended additional evaluation for internal derangement of the left knee. Respondent presented testimony which challenges the credibility of the claimant's testimony. The Administrative Law Judge has chosen to believe the claimant's testimony. The Appeals Board gives weight to the credibility judgement for witnesses the Administrative Law Judge has observed. The Appeals Board therefore finds that claimant gave timely notice of an injury which arose out of and in the course of her employment.

The Appeals Board notes that Issue No. (3) is, in essence, an argument that the claimant is not temporarily totally disabled. This is not an issue subject to review on an appeal from a preliminary order. Although respondent has attempted to couch the argument as one that the Administrative Law Judge exceeded his jurisdiction, the Administrative Law Judge clearly has jurisdiction to make the determination.

**WHEREFORE**, the Appeals Board finds that the Order by Administrative Law Judge John D. Clark dated September 26, 1996, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of December 1996.

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BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS  
Scott J. Mann, Hutchinson, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director